

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**May 30, 2006**

## DIVISION ONE

B185143 People (Not for Publication)

V.

Maynard

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Rothschild, J.

B184260 People (Not for Publication)

V.

Denham et al.

The judgment is affirmed.

Spencer, P.J.

We concur:   Mallano, J.  
                      Rothschild, J.

B185428      Nicholaw      (Not for Publication)

V.

Infinity Broadcasting Corporation

The judgment is affirmed.

Spencer, P.J.

We concur:   Mallano, J.  
                      Rothschild, J.

## DIVISION ONE (Continued)

B183333 Singer (Not for Publication)  
v.  
Raytheon Aircraft Services, Inc.

The judgment (order of dismissal) is affirmed. Raytheon is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Rothschild, J.

B178071      Grossman                      (Not for Publication)  
v.  
Cozen

The trial court's order denying plaintiff's motion for relief from judgment is reversed. The matter is remanded to the trial court for action consistent with this opinion. The parties are to bear their own costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Rothschild, J.

B185961      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Jacqueline E.

The order is affirmed.

Spencer, P.J.

I concur:       Mallano, J.  
I concur in the judgment only:       Vogel (Miriam A.), J.

May 30, 2006 (Continued)

## DIVISION ONE (Continued)

[illegible]

The order is reversed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Mallano, J.

B177496 Erde (Not for Publication)  
B181358 v.  
Moriarty et al.

The December 4, 2004 order denying cross-complainant's motion for leave to file a third amended cross-complaint is affirmed. The January 12, 2005 judgment sustaining the demurrer of cross-defendants Dorene Moriarty, Michael Moriarty, and Jean Moriarty without leave to amend is affirmed. The January 2, 2005 order granting summary adjudication in favor of cross-defendant Wallace Moriarty is reversed and on remand the trial court is directed to deny Moriarty's motion for summary adjudication. The June 21, 2004 summary judgment in favor of cross-defendants Russell Singer and Adobe Oil Development Corporation is reversed and on remand the trial court is directed to deny their motion for summary judgment. The appeal from the December 1, 2004 judgment in favor of Robert Feenstra and Milk Producers Council is dismissed.

Cross-complainant Shmuel Erde is entitled to recover costs on appeal from cross-defendants Wallace Moriarty, Russell Singer, and Adobe Oil Development Corporation. Cross-defendants Dorene Moriarty, Michael Moriarty, and Jean Moriarty are entitled to costs on appeal. Cross-defendants Robert Feenstra and Milk Producers Council and cross-complainant Shmuel Erde are to bear their own costs with respect to the appeal from the December 1, 2004 judgment.

Mallano, J.

I concur: Spencer, P.J.  
I concur in the judgment only: Vogel (Miriam A.), J.

## May 30, 2006 (Continued)

## DIVISION ONE (Continued)

B188185 People (Not for Publication)  
v.  
Alamouti

The judgment is affirmed.

Mallano, J.

I concur:        Spencer, P.J.

I concur in the judgment only: Vogel (Miriam A.), J.

B181504      Simon                                  (Not for Publication)  
v.  
Giammarrusco et al  
In re The Olesky Family Trust

The order is affirmed.

Spencer, P.J.

We concur:   Mallano, J.  
                      Rothschild, J.

B183964 Gary Morgan (Not for Publication)  
v.

Los Angeles City Board of Fire and Police Pension Commissioners

The judgment is affirmed. The parties are to pay their own costs on appeal.

Vogel (Miriam A.), J.

We concur:   Mallano, Acting P.J.  
                      Rothschild, J.

DIVISION ONE (Continued)

B182308      Correy B. Avner                      (Not for Publication)  
                 v.  
                 Olympus America, Inc., et al.

The order of dismissal is affirmed. Respondent(s) are entitled to their costs on appeal.

Mallano, Acting P.J.

I concur:      Rothschild, J.  
I concur in judgment only: Vogel (Miriam A.), J.

B185963      People                                      (Not for Publication)  
                 v.  
                 Terry Robinson

The judgment is affirmed.

Spencer, P.J.

We concur:   Vogel (Miriam A.), J.  
                 Rothschild, J.

B187043      People                                      (Not for Publication)  
                 v.  
                 Marvin Ricardo Ortiz

The order denying Ortiz's petition, is affirmed.

Vogel (Miriam A.), J.

We concur:   Spencer, P.J.  
                 Rothschild, J.

May 30, 2006 (Continued)

## DIVISION ONE (Continued)

B182913      People                                  (Not for Publication)  
v.  
Jason Michael Tackwood

The judgment is affirmed.

Spencer, P.J.

I concur:      Mallano, J.

I concur in judgment only: Vogel (Miriam A.), J.

B181940      David Greenstein      (Not for Publication)  
v.  
A.R.G. Corporation

The judgment is affirmed. Respondent(s) to recover costs.

Rothschild, J.

We concur: Spencer, P.J.  
Mallano, J.

B181278      Lisa Katona Galaz      (Not for Publication)  
v.  
Marian Oshita

The judgment is affirmed. That part of the September 12, 2005 order awarding costs is affirmed; that part of the September 12, 2005 order awarding attorney fees is reversed and the matter is remanded for further proceedings. The parties are to bear their own costs and attorney fees on appeal.

Mallano, J.

I concur:        Spencer, P.J.

I concur in the judgment only: Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B178036      John R. Pollitt      (Not for Publication)

v.

J. Patrick Maginnis

The judgment is affirmed.

Spencer, P.J.

I concur:      Rothschild, J.

I concur in the judgment only:      Vogel (Miriam A.), J.

B180115      People      (Not for Publication)

v.

Dale Allen Dixon

The judgment is affirmed. The clerk of the court is directed to correct the abstract of judgment to reflect the six-year term of imprisonment imposed and to forward a copy to the Department of Corrections.

Mallano, J.

I concur:      Spencer, P.J.

I concur in the judgment only:      Vogel (Miriam A.), J.

B182040      People      (Not for Publication)

v.

Larry Davidson

The judgment is reversed.

Mallano, J.

I concur:      Spencer, P.J.

I concur in the judgment only:      Vogel (Miriam A.), J.

DIVISION TWO

B185065      People                                  (Not for Publication)  
v.  
Williams

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The judgment is modified to strike the eight-year Penal Code section 12022, subdivision (c) enhancement and to reflect a four-year Penal Code section 12022, subdivision (c) enhancement. The matter is remanded to the trial court to permit that court to consider striking one or more of the four Health and Safety Code section 11370.2, subdivision (a) enhancements. In all other respects, the judgment is affirmed.

Doi Todd, J.

We concur:   Boren, P.J.  
                      Chavez, J.

B181670 People (Not for Publication)  
v.  
Arenas Jr.

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B186275      People                          (Not for Publication)  
v.  
Herrera

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The judgment is affirmed.

Doi Todd, Acting P.J.

We concur: Ashmann-Gerst, J.  
Chavez, J.



May 30, 2006 (Continued)

DIVISION TWO (Continued)

B187050      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Darlene L.

The order denying Mother's section 388 petition is affirmed.

Doi Todd, Acting P.J.

We concur:    Ashmann-Gerst, J.  
                 Chavez, J.

DIVISION THREE

B181067      Alejandro A., a Minor  
                 v.  
                 S.C.L.A.  
                 The People

Filed order modifying opinion. The People's petition for rehearing is denied.

B181067      People  
                 v.  
                 Darryl C. Gillard

Filed order denying petition for rehearing.

## DIVISION FOUR

B179260      Nelson                          (Not for Publication)  
v.  
Lowe

The judgment is affirmed. Lowe shall recover her costs on appeal.

Willhite, J.

We concur: Epstein, P.J.  
Hastings, J. (Assigned)

B183323 People (Not for Publication)  
v.  
Sierra

The judgment is affirmed.

Epstein, P.J.

We concur: Willhite, J.  
Hastings, J. (Assigned)

B186446      Karlsen      (Certified for Publication)  
v.  
Superior Court, Los Angeles County  
(Cannonball Acquisitions, r.p.i.)

The petition is granted. Because the trial court did comply with our alternative writ and transferred the matter back to the trial judge for compliance with our prior directive, no further action is required. The alternative writ is dissolved. The parties are to bear their own costs.

Hastings, J. (Assigned)

We concur: Epstein, P.J.  
Willhite, J.

May 30, 2006 (Continued)

## DIVISION FOUR (Continued)

B183477      The Gorham Company, Inc.      (Certified for Partial Publication)  
v.  
First Financial Insurance Company

The judgment is affirmed. First Financial shall recover its costs on appeal.

Willhite, J.

We concur: Epstein, P.J.  
Hastings, J. (Assigned)

DIVISION FIVE

B187060      People  
                  v.  
                  Douglas Dillard

Filed order modifying opinion. (No change in the judgment)

DIVISION SIX

B183780 People (Not for Publication)  
v.  
Palacios

The judgment is modified to reflect an award of 361 days of custody credits as to count 1 consisting of 241 days of actual custody and 120 days of conduct credit. The trial court shall amend the judgment accordingly and forward the amended abstract to the Department of Corrections. The judgment is otherwise affirmed.

Perren, J.

We concur: Yegan, Acting P.J.  
Coffee, J.

May 30, 2006 (Continued)

## DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Perren, J.

B165694 People (Not For Publication)  
v.  
Aghazadeh

The judgment is amended to provide an additional day's custody credit so that the total presentence conduct credit is 257 days. In all other respects, the judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.  
Coffee, J.

## DIVISION SEVEN

B184446 Continental Insurance Company  
v.  
The Pomona Redevelopment Agency

Filed order denying petition for rehearing.

## DIVISION EIGHT

Court convened at 9:00 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

DIVISION EIGHT (Continued)

Each of the following:

|         |                                |
|---------|--------------------------------|
| B181581 | People v. Summer M.            |
| B182511 | People v. Orelana and Barcenas |
| B183237 | People v. Ramirez              |
| B185897 | DCFS v. Lorenzo C.             |
| B180411 | People v. Wood                 |
| B182001 | People v. Perez                |
| B183263 | People v. Henderson            |
| B183397 | People v. Arzola               |
| B184187 | People v. Deniz                |
| B184318 | Curl v. Roe                    |

Argument waived, cause submitted.

|         |   |
|---------|---|
| B175564 | People<br>v.<br>Bradley; Johnson and Rahh |
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Oral argument continued to June 29, 2006, at 10:00 a.m.

|         |                                     |
|---------|-------------------------------------|
| B184473 | Stupar<br>v.<br>City of Los Angeles |
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Oral argument continued to June 29, 2006, at 10:00 a.m.

|         |   |
|---------|---|
| B180136 | Alzugaray<br>v.<br>Kiesel, Boucher & Larson |
|---------|---|

Oral argument continued to July 27, 2006, at 9:00 a.m.

DIVISION EIGHT (Continued)

B183886      Callahan  
                 v.  
                 Academic Senate of Long Beach Community College

Merits:  
Argued by Alan R. Burns for appellant and respondent waived oral  
argument. Cause submitted.

B184628      Shugar  
                 v.  
                 Davi

Merits:  
Argued by Allen D. Shugar, appellant in propria persona and by Diane S.  
Shaw, Deputy Attorney General for respondent. Cause submitted.

B181175      Pasadena Metro Blue Line Construction Authority,  
                 v.  
                 Pacific Bell Telephone Company et al.,

Merits:  
Argued by Mitchell E. Abbott for appellant and by Michael M. Berger for  
respondent, Pacific Bell Telephone Company. Cause submitted.

B178712      Penniman,  
                 v.  
                 Kelly,

Merits:  
Argued by Janice Mazur for appellant and by Blake A. Rummel for  
respondent. Cause submitted.

Justice Flier leaves the bench.

DIVISION EIGHT (Continued)

B177922     Goepp,  
              v.  
              Lee et al.,

B182102     Lee et al.,  
              v.  
              Goepp,

Merits:  
Argued by Jeff Berke for appellants and by Rafael R. Pacquing for  
respondent. Cause submitted.

Justice Flier returns to the bench.

B177485     Hawks,  
              v.  
              U.S. Traffic Corporation et al.

Merits:  
Argued by Douglas Benedon for appellant and by Michelle L. Flores for  
respondents. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

B185521     People  
              v.  
              Molina,

Appearances:  
Oscar Valencia for appellant and no appearance for respondent. Argument  
waived, cause submitted.

DIVISION EIGHT (Continued)

B179671 Soura,  
v.  
Buchaltar, Nemer, Fields & Younger,  
Seigel,

Merits:  
Argued by Kevin H. Brogan for respondent and by Douglas Fee for  
respondent, no appearance for appellant. Cause submitted.

B181653 People  
v.  
Jones

Merits:  
Argued by Diana M. Teran for appellant and by Zee Rodriguez, Deputy  
Attorney General for respondent. Cause submitted.

B180378 Larson et al.  
v.  
Axelrod

Merits:  
Argued by John R. Fuchs for appellants and by R. Timothy O'Connor for  
respondent. Cause submitted.

B180378 Larson et al.  
v.  
Axelrod

Merits:  
Argued by John R. Fuchs for appellants and by R. Timothy O'Connor for  
respondent. Cause submitted.



May 30, 2006 (Continued)

## DIVISION EIGHT (Continued)

B179546      Harman  
v.  
Harman

Merits:

Argued by Solveig Evers and David K. Jefferies for appellant and by Barbara B. Haug for respondent. Argued and submission deferred.

Justice Rubin leaves the bench.

B184623      Singleton,  
v.  
United Gypsum Company,

Merits:

Argued by Kevin C. Boyle for appellant and by Keith J. Braskich for respondent. Cause submitted.

Court adjourned.

B186032      Banner      (Not for Publication)  
v.  
Remon et al.,

The judgment is affirmed. Respondent is to recover her costs on appeal.

Flier, J.

We concur: Cooper, P.J.  
Boland, J.

## DIVISION EIGHT (Continued)

[illegible]

The section 667.61 (b) finding is reversed. The judgment is affirmed in all other respects. The matter is remanded to the trial court for resentencing.

Flier, J.

I concur: Rubin, J.  
I dissent: Cooper, P.J. (Opinion)

B179292      People                        (Not for Publication)  
v.  
Romero

The judgment is modified to award appellant 486 days of presentence custody credit, comprising 423 days actual custody credit and 63 days conduct credit. As so modified, the judgment is affirmed. The superior court shall prepare and transmit to the Department of Corrections and Rehabilitation an amended abstract of judgment that reflects both the foregoing modification and that appellant's sentence on count 1 is for a term of life with the possibility of parole.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

B178672      Cardenas      (Not for Publication)  
v.  
Metropolitan Water District of Los Angeles County

The judgment is affirmed.

Cooper, P.J.

We concur: Boland, J.  
Flier, J.